



STAFF REPORT

AGENDA ITEM: #8

CASE NUMBER: P.D. 18-26

L.U.C.B. MEETING: August 9, 2018

CASE NAME:

1440 Getwell Road Planned Development

LOCATION:

S.E. corner of Getwell Road and Kimball Road

COUNCIL DISTRICT(S):

District 4-Super District 9-Positions 1, 2 & 3

OWNER/APPLICANT:

Kareem Inc

REPRESENTATIVE:

David Bray (The Bray Firm)

REQUEST:

Expand the property limits of the existing convenience store onto the adjoining residential lot to the east to add additional parking space for the convenience store

ZONING:

Residential Single Family -6 (R-6) District

AREA:

Total Site = 1.03 Acs, Residential Addition = 0.34 Acs. (14,910 Sq Ft..)

EXISTING LAND USE & ZONING:

A vacant residential dwelling unit in the Residential Single Family -6 (R-6) District

CONCLUSIONS

1. The request as illustrated by the site plan on page 9 of this report, falls short of meeting the purpose and intent of a planned development. In fact, the site plan is a good example of the development that would be permitted if both the commercial and residential portions of the site were zoned commercial.
2. In review of the site plan found on page 9 of the report, staff does offer some suggestions for changes or clarification.
3. However, even with those changes, staff cannot support what it sees as an unwarranted encroachment into a residential area.

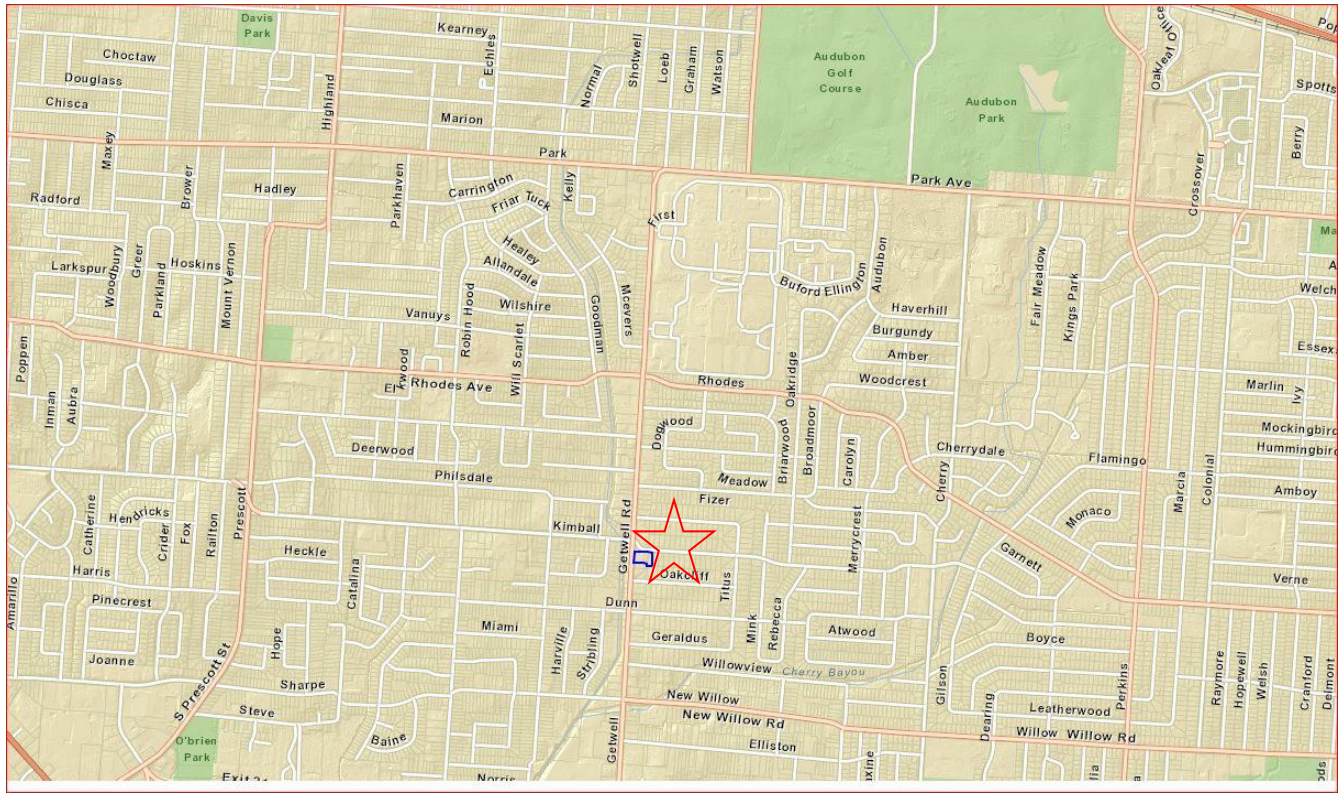
RECOMMENDATION

REJECTION

Staff Writer: John D. (Don) Jones

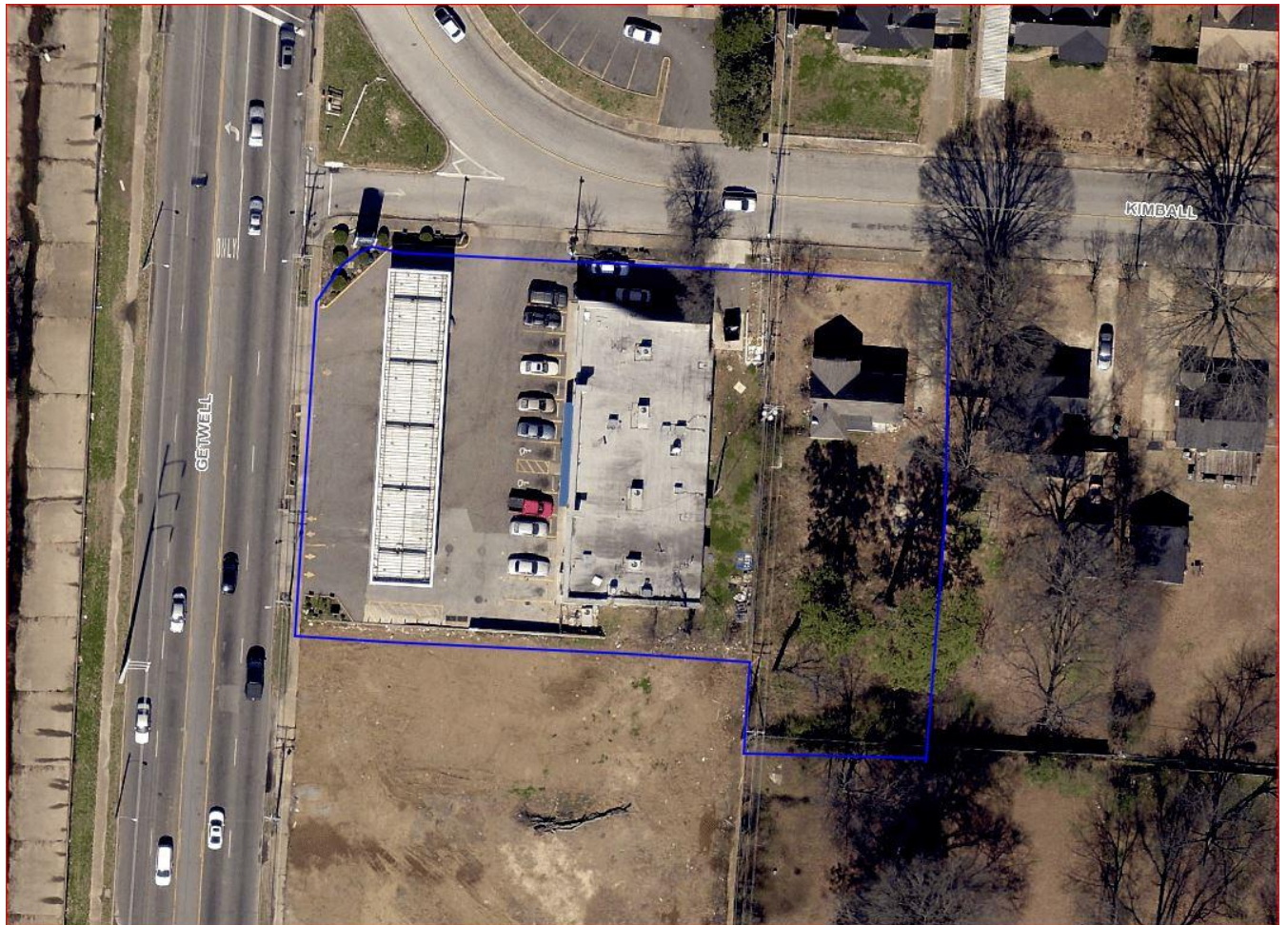
E-mail: john.jones@memphistn.gov

General Location Map



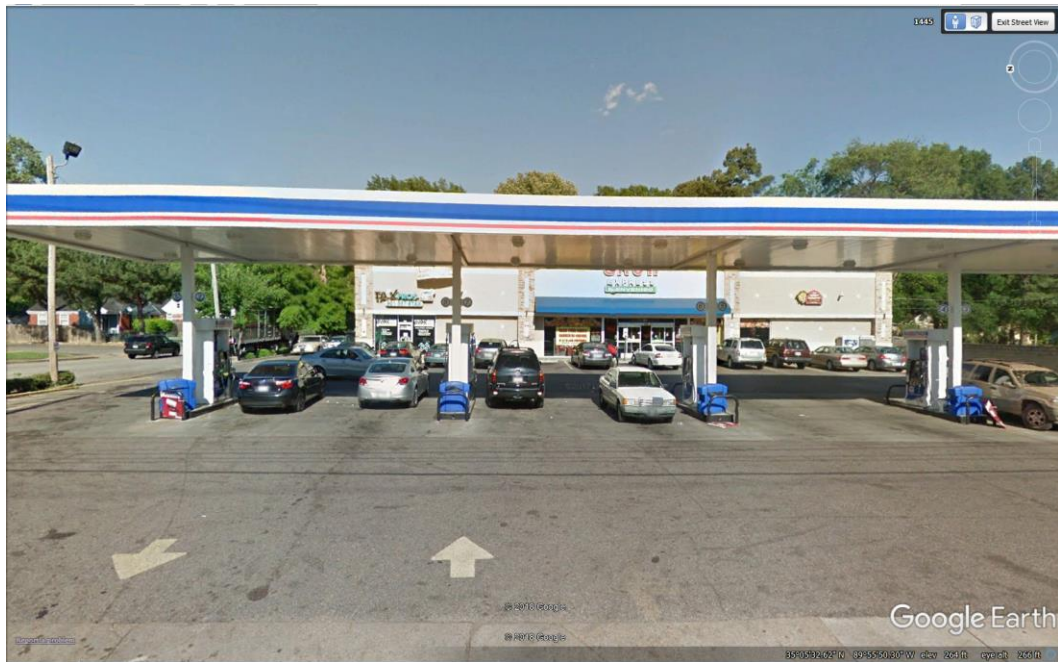
The subject property is located at the southeast corner of Getwell Road and Kimball Avenue south of the south campus of the University of Memphis.

Aerial Overview



Pictures of the Subject Property

Current Convenience Store – from Getwell Road



Convenience store – picture taken from Kimball



Convenience Store – pictures taken from Kimball Road



Below: Current residential structure on the subject property. This property is immediately east of the convenience store with s gasoline sales use and is the subject of the requested parking lot expansion for serve the convenience store use.



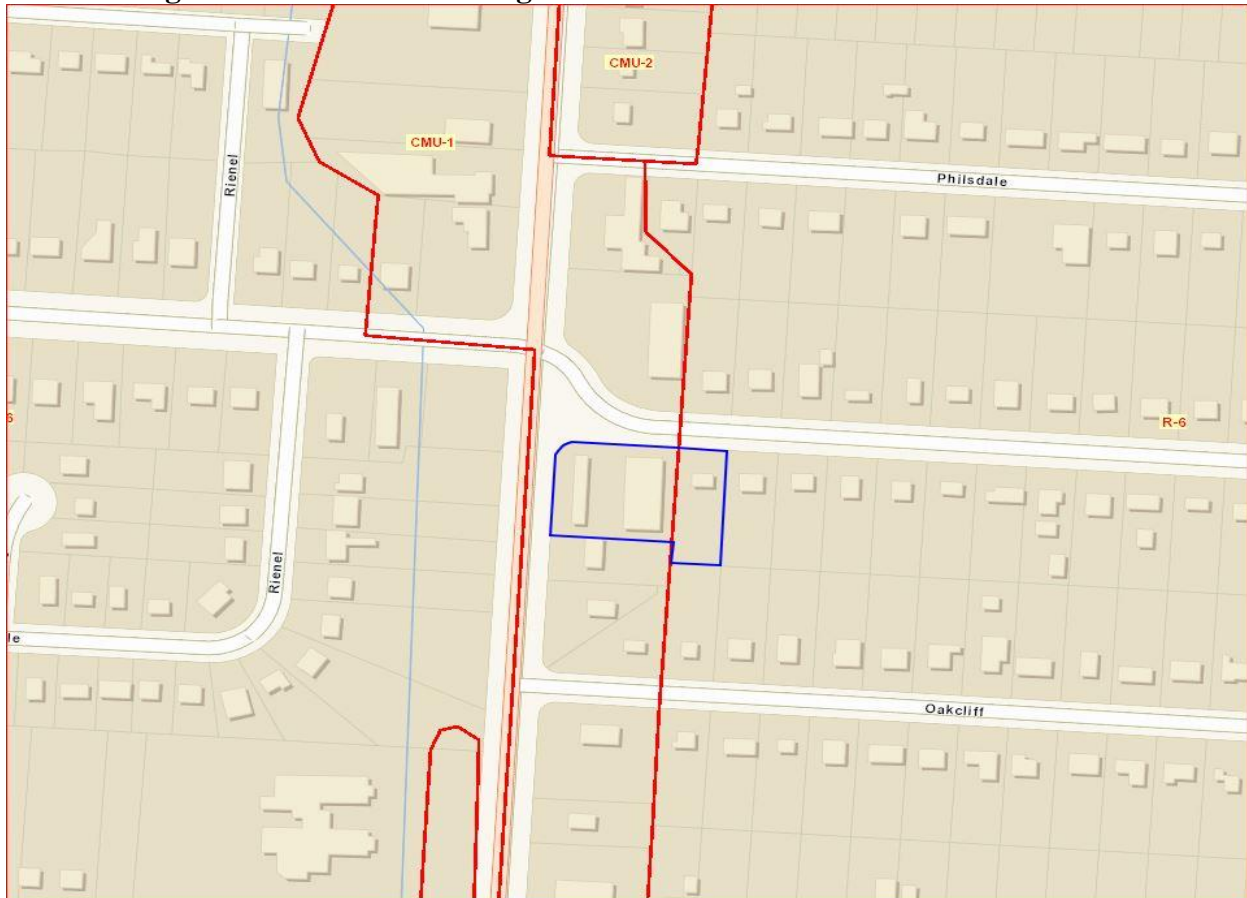
Zoning – Aerial View - subject property is outlined in blue.



Existing Uses of Land and Zoning

The convenience store at the southeast corner of Getwell Road and Kimball Road is zoned Commercial Mixed Use -1. The residential structure to the east is zoned Residential Single Family -6 (R-6).

Surrounding Uses of Land and Zoning



- North:** A small commercial (convenience) center in the Commercial Mixed Use -1 (CMU-1) Zoning District
- South:** A small commercial (convenience) center under construction in the Commercial Mixed Use-1, CMU-1) Zoning District.
- East:** Residential dwellings in the Residential Single Family -6 (R 6) zoning district.
- West:** Predominately residential dwellings oriented to Riesel St., not Getwell Road, in the Residential Single Family -6, (R-6) zoning district.

Vicinity Map



The Bray Firm
ENGINEERING

2950 Stage Plaza North
Bartlett, Tennessee 38134
June 26, 2018

Scale 1" = 200'

SURVEYING

Telephone 901-383-8668
Fax 901-383-8720
E-MAIL dgbray@comcast.net

Neighborhood Meeting - Date: May 8, 2018, **Location:** Current store, 0 attendees

Public Notice Sign (Affidavit and pictures)

Mailed Public Notice: A total of 63 notices were mailed on 7/27/2018. Staff has received one e-mail in opposition, attached to this appendix of this report, and one phone call.

[illegible]

The red box above is the parcel outline of the current residential property

STAFF ANALYSIS

Request and Justification

The request is to combine the current residential property, 3971 Kimball Avenue, with the existing Convenience Store located at 1440 Getwell Road to create additional parking for the store.

The applicant states that the store has the minimum number of parking spaces as required under the zoning code. But the store functions more like a neighborhood market than a convenience store. Parking often becomes an issue on the site. The applicant continues, the store is a retail anchor for the neighborhood and approval of this request will allow the store to better serve its customers and the neighborhood.

In follow up conversations with the applicant's representative, it has been stated that from time to time the store offers fresh fruit and vegetables in addition to packaged foods. The applicant's representative has also indicated that the applicant would be agreeable with a time limitation on the use of the parking area.

Review of Request

Planned Developments – Purpose and Intent – UDC, Section 4.10.1

The intent of a special use permit for a planned development is to **create a more desirable use of land**, a more coherent and coordinated development, and a better physical environment than would be possible under a single base zoning district or combination of base zoning districts. **Planned Developments are intended as a tool to allow creative and imaginative design that will promote amenities beyond those expected in conventional developments."**

The request as illustrated by the site plan on page 9 of this report, falls short of meeting the purpose and intent of a planned development. In fact, the site plan is a good example of the development that would be permitted if both the commercial and residential portions of the site were zoned commercial.

While the applicant might argue that this site plan represents a coherent and coordinated development, staff would argue that by extending the parking past the zoning line of demarcation between commercial and residential, you are in fact encouraging non-residential based trips into the residential area.

Even though the application is filed as a P.D. and not a rezoning, the net effect is the same. You are, for all practical intent, extending the zoning line eastward. And by doing so, creating justification for similar actions both to the north and south of this property where residential properties abut commercially zoned land.

With respect to this being a neighborhood asset, if the store owner is providing fresh fruits and vegetables and other food staples, he/she should be roundly applauded and praised. But unless these neighborhood customers are doing a full weeks' worth of grocery shopping, instead of convenience shopping, some well-placed bicycle racks and good pedestrian access to the front door would seem to be as useful as adding a parking that encourages vehicles coming from longer distances to the site at the expense of a functional residential property.

Based on a site visit, it appears that the small convenience center on the opposite corner of Getwell Road and Kimball Avenue could be a candidate for shared parking. And the same comment can be made regarding the new commercial center that is located to the south of the subject property and currently under construction.

Conclusions

Staff does not support this request. If the reviewing bodies are inclined toward approval staff suggests the following changes to the site plan.

1. Along the east and south property lines, replace the proposed sight-proof wooden fence with a brick or similar masonry fence.
2. Along the Kimball Avenue frontage, continue the serpentine designed fence, but commit to the fencing being wrought iron.
3. Commit to some hours of operation for the parking area to no later than 7 P.M.
4. Provide a security gate to close off access to the gate. Gate will match the wrought iron fence.
5. Provide a lighting plan that demonstrates that any trespass of light beyond the east or south property lines shall not exceed 1 candle foot in intensity.

However, staff does not think that even the inclusion of these conditions will overcome what staff sees as an unwarranted encroachment into a residential area, they will at least address some of the negative impacts associated with the request.

RECOMMENDATION: REJECTION

If recommended for approval, the following conditions shall apply:

LUCB Outline Plan Conditions
1440 Getwell Road Planned Development
P.D. 18-26

I. Uses Permitted:

Any use permitted by right in the CMU-1 District and surface parking as shown on the submitted Site Plan/Concept Plan.

II. Site Development Requirements

As regulated by the Commercial Mixed Use -1 District and/or illustrated on the submitted site plan/concept plan.

III. Access and Circulation

- A. The existing curb cut serving the existing residential dwelling on Kimball Avenue shall be closed and replaced with curb, gutter and sidewalk prior to the final issuance of a permit by the Office of Construction Code Enforcement.
- B. All existing, nonconforming curb cuts on the commercial property, shall be brought into compliance or closed and replaced with curb, gutter and sidewalk.
- C. Any proposed curb cuts shall be subject to the review and approval of the City Engineer.
- D. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards.
- E. This development is adjacent to Getwell Road which has been identified by TDOT (Project ID# 75) to receive future improvements. The applicant is advised that land from his/her parcel may be reserved or dedicated to accommodate the future expanded R.O.W.”

IV. Landscaping, Screening and Lighting:

- A. Where this property abuts a residential zoning district, the applicant shall demonstrate compliance with the Class III buffer.
- B. The screening of the parking lot along Kimball Avenue shall be considered as an equivalent alternative to the required streetscape plate.

- C. Applicant shall provide a lighting plan that demonstrates conformance with Chapter 4.7.
- D. All HVAC equipment and dumpsters shall be screened from the view of abutting residential properties and any public rights of way.
- E. Any required landscaping shall not be located within any easement unless otherwise approved by the Planning Director.

V. Drainage

- A. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.
- B. This site is located in a designated sensitive drainage basin. Drainage improvements, including mandatory on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis Drainage Design Manual.
- C. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.

VI. Signs

- A. Attached and detached signage for the existing store and its immediate environs (that which is in place today prior to the request to add the residential property) shall be regulated by the CMU-1 District.
- B. No signs shall be permitted for the area that is being added to the commercial site by this P.D. formerly identified as 3971 Kimball Avenue.

VII. The Land Use Control Board may modify the building, setback, building height, parking, landscaping, phasing plan and sign requirements if equivalent alternatives are presented at the time of site plan review.

VIII. A Final Plat shall be recorded within five (5) years of the approval of this P.D. by the Memphis City Council. Time extensions may be applied for via a Major Modification Application.

IX. Any Final Plat shall include the following items:

- A. The outline plan conditions.

- B. A standard subdivision contract as defined by the Subdivision Regulations for any needed public improvements.
- C. The exact location and dimensions including height of all building or buildable areas, parking areas, drives, loading spaces and facilities, required landscaping, trash receptacles, and signs.
- D. The number of parking spaces.
- E. The location and ownership, whether public or private, of any easement.
- F. A statement conveying all common facilities and areas to a property owners' association, or other entity, for ownership and maintenance purposes.
- G. The 100-year flood elevation.

RECOMMEDATION

REJECTION

GENERAL INFORMATION

Zoning Atlas Page: 2240

Parcel ID: Residential Lot – 058108 00002
Commercial Lot - 058108 00001C

DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City Engineer:

CASE: PD 18-26

NAME: 1440 Getwell Road PD

1. Standard Subdivision Contract as required in Section 5.5.5 of the Unified Development Code.

Sewers:

2. City sanitary sewers are available at developer's expense.

Roads:

3. The Developer shall be responsible for the repair and/or replacement of all existing curb and gutter along the frontage of this site as necessary.
4. All existing sidewalks and curb openings along the frontage of this site shall be inspected for ADA compliance. The developer shall be responsible for any reconstruction or repair necessary to meet City standards,
5. This development is adjacent to Getwell Road which has been identified by TDOT (Project ID# 75) to receive future improvements. The applicant is advised that land from his/her parcel may be reserved or dedicated to accommodate the future expanded R.O.W.”
6. What is the location of the gasoline storage tanks on site and how do supply trucks access the site? The applicant shall provide to the City Engineer a site plan showing the turning movements for gasoline delivery and the dumpster enclosure.

Traffic Control Provisions:

7. The developer shall provide a traffic control plan to the city engineer that shows the phasing for each street frontage during demolition and construction of curb gutter and sidewalk. Upon completion of sidewalk and curb and gutter improvements, a minimum 5 foot wide pedestrian pathway shall be provided throughout the remainder of the project. In the event that the existing right of way width does not allow for a 5-foot clear pedestrian path, an exception may be considered.
8. Any closure of the right of way shall be time limited to the active demolition and construction of sidewalks and curb and gutter. Continuous unwarranted closure of the right of way shall not be allowed for the duration of the project. The developer shall provide on the traffic control plan, the time needed per phase to complete that portion of the work. Time limits will begin on the day of closure and will be monitored by the Engineering construction inspectors on the job.
9. The developer’s engineer shall submit a Trip Generation Report that documents the proposed land use, scope and anticipated traffic demand associated with the proposed development. A detailed Traffic Impact Study will be required when the accepted Trip Generation Report indicates that the number of projected trips meets or exceeds the criteria listed in Section 210- Traffic Impact Policy for land Development of the City of Memphis Division of Engineering Design and Policy Review Manual.

Curb Cuts/Access:

10. The northern most curb cut on Getwell Road shall be closed with curb, gutter and sidewalk.
11. The City Engineer shall approve the design, number and location of curb cuts.

12. Any existing nonconforming curb cuts shall be modified to meet current City Standards or closed with curb, gutter and sidewalk.
13. The existing non-conforming curb on the northwest corner of the Kimball frontage is not to city standard, was installed without a permit and shall be reconstructed to conform to current requirements for two-way access.

Drainage:

14. A grading and drainage plan for the site shall be submitted to the City Engineer for review and approval prior to recording of the final plat.
15. This site is located in the Black Bayou Drainage Basin which is designated a sensitive drainage basin. Drainage improvements, including mandatory on-site detention, shall be provided under a Standard Subdivision contract in accordance with Unified Development Code and the City of Memphis Drainage Design Manual.
16. Drainage data for assessment of on-site detention requirements shall be submitted to the City Engineer.

General Notes:

17. The width of all existing off-street sewer easements shall be widened to meet current city standards.
18. No other utilities or services may occupy sanitary sewer easements in private drives and yards except for crossings.
19. All commons, open areas, lakes, drainage detention facilities, private streets, private sewers and private drainage systems shall be owned and maintained by a Property Owner's Association. A statement to this effect shall appear on the final plat.
20. Required landscaping shall not be placed on sewer or drainage easements.

City Fire Division: No comments received.

City Real Estate: No comments received.

County Health Department:

The Water Quality Branch & Septic Tank Program have no comments.

Shelby County Schools: No comments received.

Construction Code Enforcement: No comments received.

Memphis Light, Gas and Water: No comments received.

Neighborhood Associations: No comments received.

Appendix

Application

Letter of Intent

Letter of Opposition

Application



Memphis and Shelby County
Office of Planning and Development

CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR PLANNED DEVELOPMENT APPROVAL
(OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)

Date: 07.02.2018

Case #: _____

PLEASE TYPE OR PRINT

Name of Development: 1440 GETWELL ROAD P.D.

Property Owner of Record: KAREEM INC. Phone #: _____

Mailing Address: 1440 GETWELL ROAD City/State: MEMPHIS Zip 38111

Property Owner E-Mail Address: _____

Applicant: SAME Phone # _____

Mailing Address: _____ City/State: _____ Zip _____

Applicant E-Mail Address: _____

Representative: _____ Phone #: _____

Mailing Address: _____ City/State: _____ Zip _____

Representative E-Mail Address: _____

Engineer/Surveyor: THE BRAY FIRM Phone # 901.383.8668

Mailing Address: 2950 STAGE PLAZA N. City/State: BARTLETT Zip 38134

Engineer/Surveyor E-Mail Address: djbray@comcast.net

Street Address Location: SE CORNER GETWELL/KIMBALL 1440 GETWELL

Distance to nearest intersecting street: @ INTERSECTION

	Parcel 1	Parcel 2	Parcel 3
Area in Acres:	<u>0.69</u>	<u>0.34</u>	_____
Existing Zoning:	<u>CMU-1</u>	<u>R-6</u>	_____
Existing Use of Property	<u>C-STONE</u>	<u>SFR</u>	_____
Requested Use of Property	<u>C-STONE</u>	<u>PARKING</u>	_____

Medical Overlay District: Per Section 8.2.2D of the UDC, no Planned Developments are permitted in the Medical Overlay District.

N/A
Unincorporated Areas: For residential projects in unincorporated Shelby County, please provide the following information:

N/A
Number of Residential Units: _____ Bedrooms: _____

Expected Appraised Value per Unit: _____ or Total Project: _____

Amendment(s): Is the applicant applying for an amendment to an existing Planned Development?

Yes ☐ No ☒

The following modifications to existing planned developments are considered amendments: 1) a change to the permitted uses in a planned development, except in situations where a use of a higher classification is proposed to be changed to a use of a lower classification; 2) a modification to conditions that phases the uses, and 3) a conversion of public streets. See Section 9.6.11E(1) of the UDC for further details.

4.10.3 Planned Development General Provisions

The governing bodies may grant a special use permit for a planned development which modifies the applicable district regulations and other regulations of this development code upon written findings and recommendations to the Land Use Control Board and the Planning Director which shall be forwarded pursuant to provisions contained in section 4.10.3:

Please address each sub-section below (Provide additional information on a separate sheet of paper if needed).

- The proposed development will not unduly injure or damage the use, value and enjoyment of surrounding property nor unduly hinder or prevent the development of surrounding property in accordance with the current development policies and plans of the City and County.

THE PROPOSED DEVELOPMENT WOULD EXPAND THE EXISTING Q-STORE BY INCREASING THE PARKING LOT SIZE. THE WEST LINE OF THE COMMERCIALY USED AREA WOULD SHIFT 75' EAST BUT THE EXISTING SFR WOULD BE SCREENED WITH FENCING AND LANDSCAPING.

- An approved water supply, community waste water treatment and disposal, and storm water drainage facilities that are adequate to serve the proposed development have been or will be provided concurrent with the development.

SITE DEVELOPMENT WOULD NOT IMPACT EXISTING SERVICES.

- The location and arrangement of the structures, parking areas, walks, lighting and other service facilities shall be compatible with the surrounding land uses... (see UDC sub-section 4.10.3C)

NEW PARKING AREA WOULD BE SCREENED ALMOST BOUNDARY WITH EXISTING RESIDENTIAL USES.

- Any modification of the district standards that would otherwise be applicable to the site are warranted by the design of the outline plan and the amenities incorporated therein, and are not inconsistent with the public interest.

THE EXISTING STORE IS AN ASSET TO THE NEIGHBORING COMMUNITY. IMPROVEMENT OF PARKING FACILITIES FOR THE SITE WOULD ENHANCE ITS IMPACT.

- Homeowners' associations or some other responsible party shall be required to maintain any and all common open space and/or common elements.

N/A

- Lots of records are created with the recording of a planned development final plan.

YES. NO NEW LOTS ARE BEING CREATED

REQUIREMENTS PRIOR TO APPLICATION SUBMISSION

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

Pre-Application Conference held on: Aug with City of Memphis

NEIGHBORHOOD MEETING - At least ten (10) days, but not more than 120 days, prior to a hearing before the Land Use Control Board, the applicant shall provide an opportunity to discuss the proposal with representatives from neighborhoods adjacent to the development site (Section 9.3.2).

Neighborhood Meeting Requirement Met: ☒ Yes or ☐ Not Yet
(If yes, documentation must be included with application materials)
See Letter of Intent

SIGN POSTING - A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

I (we) hereby make application for the Planned Development described above and on the accompanying materials. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

Anthony R. [Signature] 07/02/18
Property Owner of Record Date Applicant Date

**GUIDE FOR SUBMITTING
PLANNED DEVELOPMENT APPLICATION
(OUTLINE PLAN APPROVAL/OUTLINE PLAN AMENDMENT)**

A **THE APPLICATION** - Two (2) collated sets of this application in accordance with the requirements of the Unified Development Code and as outlined below shall be submitted to OPD. The following information is required to be submitted for consideration as a complete application, and except for copies of the Outline and/or Site/Concept Plan, shall be provided on sheets of 8.5"x11" in size. The application with original signatures shall be completed either with legible print or typewritten. Each application set shall be compiled in the following order:

- 1) This application, 8.5"x11" Outline and/or Site/Concept Plan, Legal Description, Vicinity Map, 2-3 sets of gummed-backed Mailing Labels, 2 sets of paper copied Mailing Labels, Letter of Intent, 20"x24" Outline and/or Site/Concept Plan (folded), copy of Deed(s).
- 2) A compact disc with all submittal documents in "PDF" and any proposed conditions in "WORD".

(For additional information concerning these requirements contact Land Use Control Section at (901) 576-6601.)

Letter of Intent



The Bray Firm

Telephone 901-383-8668
Fax 901-383-8720

2950 Stage Plaza North
Bartlett, Tennessee 38134

July 2, 2018

Josh Whitehead, Director
Memphis and Shelby County
Office of Planning and Development
125 North Main Street
Memphis, Tennessee 38103

**RE: 1440 Getwell Road Planned Development
Lots 81-83, Oak Cliff Parks Subdivision
Memphis, Tennessee**

Mr. Whitehead:

Please find attached an application for a Planned Development for the above captioned property. This application is to combine the currently residentially zoned lot with the existing C-store to create more parking. As currently configured the C-store has just enough parking per the zoning regulations for a C-store. However, the store functions more as a neighborhood market than as simply a C-store and parking often becomes an issue on the site. The owner of the store has purchased the lot immediately east of the existing store and would like to add the necessary parking on that lot. The parking area would be serviced by an existing drive into the site and the parking area would be screened with landscaping and a 6-foot tall wood privacy fence.

Under typical circumstances the request to shift the zoning line into the residentially zoned area could be considered a detriment to the neighborhood. However, this store is an anchor in the neighborhood and this addition would allow the store to better serve the existing neighborhood. The operators of the store know most of their customers by name, the store offers more variety and selection than a typical store. Also, this store does not sell alcohol or beer. On May 8th we held our neighborhood meeting for this expansion on the site. Prior to the meeting we received several phone calls from surrounding owners but once we explained the scope of the project no one objected. None of the neighbors notified attended the meeting.

Thank you for considering this request. If you have any questions or need any additional information, please contact me.

Sincerely,

David Gean Bray, P.E.

Letter of Opposition

Case number: P.D. 18-26 Case Name: Get-well Road C-store P.D.

Page 1 of 1

Reply all | Delete Junk |

Case number: P.D. 18-26 Case Name: Get-well Road C-store P.D.

E ERUFFIN <eruffin2u@yahoo.com>
Sat 7/28, 9:37 PM
Jones, Donald



Reply all |

You replied on 7/30/2018 9:02 AM.

As a resident on oakcliff road I am against expanding the property limits of the existing convenience store on to the adjoining residential lot to the east to add additional parking spaces for the convenience store. The record request is denied by the owner of the property 3970 Oak Cliff Road.

The construction workers have been dirty and messy leaving trash and debris all in the driveway, as it is they eat their lunch, drink drinks and leave their food containers all over the ground and all in my driveway. I do not care to have any additional parking for the convenience stores anywhere closer to my home. The workers are noisy and very disrespectful they don't even pick up their trash. I am against this case.

Sincerely Evangeline Ruffin

Tap to get Yahoo Mail